

## CLAIM FOR CERTAIN INTERNAL-REVENUE TAXES ILLEGALLY COLLECTED.

FEBRUARY 24, 1910.—Ordered to be printed.

Mr. STEPHENSON, from the Committee on Claims, submitted the following

### REPORT.

[To accompany S. 2441.]

The Committee on Claims, to whom was referred the bill (S. 2441) for the relief of the next of kin of Stewart & Co. and the heirs of C. A. Weed, for whom A. P. H. Stewart was agent, having had the same under consideration, beg leave to report it back with the recommendation that it be amended, and, as so amended, that it do pass.

The amendment which your committee recommend is as follows:

Strike out all after the enacting clause and insert the following:

"That the Secretary of the Treasury be, and he is hereby, authorized and directed to reopen, consider, and adjust, any statute of limitation to the contrary notwithstanding, the claims of Stewart and Company, and A. P. H. Stewart, agent, for internal-revenue taxes alleged to have been illegally collected between September and November, eighteen hundred and sixty-five, on cotton purchased from the Government by the claimants and which taxes have not heretofore been refunded; and if it shall appear that said taxes were illegally collected, then, and in that event, there shall be paid, out of any money in the Treasury not otherwise appropriated, by way of refund, an amount not exceeding eleven thousand two hundred and eight dollars and four cents, said sum to be paid to the next of kin of C. A. Weed and to the legal representatives of A. P. H. Stewart, formerly copartners, trading under the firm name of Stewart and Company, and A. P. H. Stewart, agent; which sum shall be in full settlement of all claims of said parties for internal-revenue taxes illegally collected on cotton purchased from the Government by the claimants during the period aforesaid and not heretofore refunded."

The bill is recommended by the Commissioner of Internal Revenue, and is aimed to refund taxes erroneously collected on cotton in 1865, said cotton having been purchased by the claimants from the Government, whereas the statute, section 177, act of June 30, 1864 (13 Stat. L., 223), provided that "all cotton sold by or on account of the Government of the United States shall be free and exempt from duty at the time of and after the sale thereof."

Favorable reports have been made on the bill in the Senate in the Fifty-fourth, Fifty-fifth, and Fifty-sixth Congresses and by the House

in the Fifty-third and Fifty-fourth Congresses, and a bill passed the Senate in the Fifty-fourth Congress. A similar bill was also favorably reported in the Sixtieth Congress, passed the Senate, and was favorably reported in the House.

On June 24, 1909, Acting Commissioner of Internal Revenue Caleb Williams reported on this bill to the Hon. Henry E. Burnham, chairman of the Committee on Claims. In said report Mr. Williams invited attention to the report of February 4, 1896, of then Acting Commissioner of Internal Revenue G. W. Wilson on the two claims embraced in this bill, and the following is an extract from said report:

The facts in each of the cases are as follows, viz:

First. As to the claim for \$3,486.64, filed in this office July 9, 1894, the evidence tends to show that Messrs. Stewart & Co. were dealers in cotton in Mobile, Ala., and in the course of business as such dealers purchased 383 bales of cotton, weighing 174,332 pounds, which had been captured by the United States and was sold to them on account of the Government, and that, notwithstanding the fact that the statute, section 177, of the act of June 30, 1864 (13 Stat. L., 223), provided that all cotton sold by or on behalf of the Government "shall be free and exempt from duty," Mr. Stewart was required to pay and did pay to the United States a tax thereon of 2 cents per pound, amounting to \$3,486.64.

Second. As to the claim for \$7,721.40, filed March 7, 1893, the records of this office show that A. P. H. Stewart, agent, paid, from September 13 to 25, 1865, both days inclusive, a tax of 2 cents per pound on 402,156 pounds of cotton, amounting to \$8,043.12, 4 per cent of which, \$321.72, has been refunded as having been paid on tare of cotton. Mr. Stewart alleges that the whole of this 402,156 pounds was government cotton. If this is a fact, no tax should have been collected on it, it being exempt under section 177, act of June 30, 1864, above referred to.

Had these claims been presented prior to June 7, 1873, they could have been considered in this office without further legislation. It is understood that this delay in presenting the claims was due to the fact that the claimant supposed that a letter written by his attorney to this office in July, 1871, was sufficient to save the bar, and to the further fact that he relied for evidence in support of the first-named claim on the case of *The United States v. Harrison Johnson*, decided by the United States Supreme Court at its October term, 1887.

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I feel disposed to say that the circumstances connected with the first two claims embraced in the bill appear to have been such as to render it proper that the claimants, Stewart & Co., and A. P. H. Stewart, agent, should be relieved from the operation of the statute of limitation and allowed to prosecute the claims as if they had been filed in time.

To the extent that they were required to pay taxes contrary to the provision of law, above mentioned, they should undoubtedly have relief.

The first two claims above mentioned are the only ones embraced in the bill.

In view of the statement of the Commissioner of Internal Revenue that "to the extent that" the claimants "were required to pay taxes contrary to the provision of law, above mentioned, they undoubtedly have relief," your committee recommend that the bill do pass.